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FISCAL IMPACT STATEMENT

LS 7789

BILL NUMBER: HB 1821

NOTE PREPARED: Apr 11, 2007

BILL AMENDED: Apr 10, 2007

SUBJECT: Professions and Occupations and Criminal Background Checks of Certain Entities.

FIRST AUTHOR: Rep. Klinker

FIRST SPONSOR: Sen. Miller

BILL STATUS: As Passed Senate

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Criminal Background Checks*- The bill requires a licensed home health agency and licensed personal services agency to apply for a national criminal background check for employees (current law requires a limited criminal history check).

Licensure of Occupational Therapists- The bill requires the licensure of occupational therapists (current law requires certification). The bill requires an occupational therapist assistant to practice under the direct supervision of an occupational therapist.

Physician or Chiropractor Referral- The bill provides that an occupational therapist may not provide certain services unless the patient has been referred by specified providers.

Continuing Education Civil Penalties- A holder of a license, registration, or certificate may be subject to civil penalties under certain circumstances.

Investigation of Application- The Professional Licensing Agency may delay reinstating a license, certificate, or registration for 90 days to investigate an applicant.

Disciplinary Sanctions- A holder of a license, registration, or certificate is subject to disciplinary sanctions in specified circumstances. The Board may summarily suspend the license of a real estate appraiser under certain circumstances.

Beauty Culture Instructor License- An individual may obtain a beauty culture instructor license and instruct in areas of beauty culture in which the individual holds a license.

Physician Assistants- A physician assistant's certificate is placed on inactive status if the physician assistant does not practice under a supervising physician.

Registrations to Manufacture or Distribute Controlled Substances- A registration to distribute controlled substances is automatically invalidated under specified circumstances.

Tanning Facilities- The bill provides for reinstatement of a tanning facility license.

Semiprofessional Elimination Contests- The bill removes semi-professional elimination contests from the boxing and sparring laws.

Continuing Education of Land Surveyors- The bill removes a provision that requires certain organizations to supply information concerning continuing education of land surveyors.

CPA's- The bill allows: (1) an individual who holds a valid CPA certificate from any state to perform quality reviews

Mobile Salons- The bill allows the State Board of Cosmetology Examiners to establish standards for mobile salons.

Speech-Language Pathology- The bill allows individuals who meet certain requirements to obtain a license in speech-language pathology.

Duplicate Fees- The bill changes the fee for issuance of a duplicate license, registration, or certificate from \$10 to \$25.

Limit of Course Work Hours- The bill changes the limitation on course work hours for students in barber school or cosmetology school from eight to ten hours per day.

Marriage and Family Therapists Clinical Experience- The bill changes the clinical experience required for marriage and family therapist from three to two years.

Controlled Substance Lists- The bill makes changes to the controlled substance lists. Makes conforming changes.

Repealers- The bill repeals provisions concerning: (1) requiring a person to complete a cosmetology school program again if the person fails the examination by the State Board of Cosmetology Examiners; (2) esthetics and electrology instructors licenses, which are replaced with the beauty culture instructor license; and (3) inactive cosmetology professional's licenses.

Effective Date: July 1, 2007.

Explanation of State Expenditures: (Revised) *Professional Licensing Agency-* The bill would not affect Professional Licensing Agency (PLA) staffing levels. The professional licensing provisions of this bill would be able to be carried out within the PLA's existing level of resources. The following paragraphs provide more detailed explanation of certain provisions within the bill.

(Revised) *Suspension of License-* The bill would require the Attorney General's Consumer Protection

Division to attempt to notify, by fax or phone, a real estate appraiser of a hearing by the Real Estate Appraisers Licensure and Certification Board on the potential suspension of the license of the appraiser contacted. The Attorney General's office should be able to accomplish this provision within their existing level of resources.

As of September 5, 2006, the Attorney General had 344 total employees. Of that total, 289 were full-time, 38 intermittent, 10 temporary, and 7 were on leave. The Attorney General's General Fund appropriation is \$21.4 M for FY 2007.

(Revised) *Beauty Culture Instructor License*- This provision would combine all current instructor licenses into one instructor license. This provision could save the PLA administrative time by reducing the types of instructor licenses processed to one. As of December 2006, there were 960 cosmetology, 68 esthetics, and 3 electrology active instructors licenses.

(Revised) *Mobile Salons*- The bill would require the Board of Cosmetology Examiners to adopt rules for the regulation of mobile salons. There would be administrative costs to process additional licenses for mobile salons. The number of mobile salons that may apply for licensure under this provision is unknown.

(Revised) *Controlled Substance Lists*- The bill makes additions to the controlled substance lists:

Table A. Controlled Substance Lists

Substance List	Categories Effected Under Bill
Schedule I	Opiates, Hallucinogenic Substances, Stimulants
Schedule II	Opium & Opiates, Depressants, Immediate Precursors
Schedule III	Depressants, Narcotics
Schedule IV	Depressants, Stimulants
Schedule V	Adds Pyrovalerone (Stimulant) and Pregabalin (Depressant)

The bill would introduce into the Schedule V list stimulants and depressants.

Adding new drugs to the controlled substance schedules could increase the number of arrests and charges filed in court for either possession, manufacture, or delivery of controlled substances. The following table shows the existing penalties for violations of the controlled substance schedules. If additional convictions occur, the Department of Corrections (DOC) would have increased expenditures to incarcerate convicted persons within a DOC facility. The average expenditure to house an adult offender was \$22,734 in FY 2006.

Table B. Scheduled Controlled Substance Violations and Penalties

Violation	Penalty Under Current Law
Possession of Schedule I - IV controlled substance	Class D Felony (Class C under aggravating circumstances)
Possession of Schedule V controlled substance	Class D Felony
Dealing in Schedule I - III controlled substance	Class B Felony (Class A under aggravating circumstances)
Dealing in Schedule IV controlled substance	Class C Felony (Class B under aggravating circumstances)
Dealing in Schedule V controlled substance	Class D Felony (Class B under aggravating circumstances)

The following table shows prison terms for felonies under current law.

Table C. Felony Prison Sentences

Felony Conviction	Prison Sentence
Class A	20 to 50 years
Class B	6 to 20 years
Class C	2 to 8 years
Class D*	6 months to 3 years*
*charge may be reduced to Class A misdemeanor	

Criminal Background Checks- Currently, the Indiana State Police (ISP) are responsible for conducting limited criminal history background checks for home health and personal services agencies. Under the bill, the ISP would be required to conduct a national criminal history background check. The ISP would experience an indeterminable change in workload as a result of this provision.

Licensure of Occupational Therapists- Licensure of occupational therapists would present minimal impact to state expenditures, with respect to administration. The bill would allow active occupational therapist certifications to be grandfathered to licenses on July 1, 2007. The Professional Licensing Agency would not have to send pocket cards and wall licenses to the grandfathered practitioners until the occupational therapist licensing renewal period beginning November 1, 2008. Applications (state form 43826) would have to be amended to reflect the change from certification to licensure. However, the current application is readily available online at the Professional Licensing Agency's website. Therefore, printing expense for new applications should be minimal.

Rules- If the Medical Licensing Board required additional meetings to adopt the rules to approve an occupational therapy examination required by the bill, additional expenditures would be required to cover members per diem and travel expenses. The Board is scheduled to meet 11 times in 2007.

Explanation of State Revenues: (Revised) *Duplicate Fees-* A fee increase for duplicate wall licenses, certifications, and registrations to \$25 would present a minimal increase in revenue to the PLA. Duplicate wall license fees for certain professions are already at \$25.

(Revised) *Mobile Salons-* Licensing of mobile salons would increase fee revenue by an indeterminable

amount. The additional revenue would depend on the fees set by the State Board of Cosmetology Examiners. As of December 2006, there were 8,378 cosmetology, 914 manicuring, and 14 electrology salons licensed. The current fee to license a salon with the Board of Cosmetology Examiners is \$40.

(Revised) *Tanning Facilities*- The number of licensees that may be eligible for reinstatement is unknown. There were 1,333 tanning facilities with active licenses as of December 2006. The current reinstatement fee for cosmetologists is \$50.

(Revised) *Speech-Language Pathology Licensing*-

PLA License- This bill would allow persons applying for licensure that hold a license in speech and hearing therapy issued by the Division of Professional Standards (DPS) within the Department of Education, have a masters degree in speech-language pathology, and have been employed as a speech-language pathologist for at least nine months in the last five years to be issued a speech-language pathology license by the PLA. Additionally, persons holding a life license with the DPS, has been employed as a speech-language pathologist for at least nine months in the last five years, and takes 36 hours of approved continuing education would also be issued a license.

The potential number of persons that could be eligible for licensure under this provision is unknown. However, the DPS reports there were 17 speech and hearing therapy, 65 communication disorder, and 118 speech-language hearing clinician licenses issued by the DPS during CY 2006. It is unknown how many of these persons are licensed by the PLA.

The current fee for an initial speech-language pathology license via the PLA is \$150. As of December 2006, there were 1,826 active licensed speech-language pathologists with the PLA.

Division of Professional Standards License- The bill would allow the Division of Professional Standards (DPS) within the Department of Education to issue a *non-renewable* initial license as a speech-language pathologist to persons in a clinical fellowship in speech-language pathology. The bill specifies that the license would expire on the earlier of the date the person is licensed by the PLA as a speech-language pathologist or 18 months after the person begins their clinical fellowship. The current fee for the DPS license is \$35. As listed above, there were 118 speech-language hearing clinician licenses issued by the DPS during CY 2006.

(Revised) *Semiprofessional Elimination Contests*- Under current law, persons conducting semiprofessional elimination contests without a license commit a Class B misdemeanor. The elimination of this provision could reduce revenues from fines and fees to the Common School Fund and the state General Fund. However, the reduction would likely be small. The maximum fine for a Class B misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund.

(Revised) *Controlled Substance Lists*- If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Criminal Background Checks- This bill requires home health and personal services agencies to obtain a national criminal history background check for an employee not more than three business days after the date an employee starts employment. Under current law, home health and personal services agencies are required to obtain a limited criminal history check on new employees.

The Indiana Office of Technology and the ISP report that 75% of persons obtain a limited criminal history check through the Internet (AccessIndiana), and the remaining 25% obtain the check in person or through the mail. Fees vary for limited criminal history background checks and are dependent on the method in which the information is obtained. In addition, home health agencies which are nonprofit organizations and have been in existence for at least ten years are exempt from paying limited criminal history background check fees. Revenue from fees collected is deposited into the state General Fund and the IOT Portal Fund (see table below). The IOT reports that the Portal Fund is used to maintain and modify AccessIndiana webpages.

Limited Criminal History Background Check Fees				
Type of Fee	Information Obtained Through	Amount of Fee	Amount of Fee Deposited into State General Fund	Amount of Fee Deposited into IOT Portal Fund
AccessIndiana (Subscriber)	AccessIndiana Website	\$15	\$7	\$8
AccessIndiana (Non-Subscriber)	AccessIndiana Website	\$16.32	\$7	\$9.32
Mail/In-Person	Mail; In-Person	\$7	\$7	\$0
Full Exemption	AccessIndiana Website; Mail; In-Person	\$0	\$0	\$0

A national criminal history background check costs \$39, \$24 of which is given to the federal government; the remaining \$15 is deposited into the state General Fund.

Fiscal Impact: The number of persons employed by home health and personal services agencies is not known. The number of home health agencies which would be exempt from fees is not known.

As proposed, the state would likely experience an increase in revenue. Actual increases would be dependent on the type of limited criminal history check fee paid (would range between \$0 for certain home health agencies and \$16 for agencies/employees requesting the information online without an AccessIndiana subscription) by a home health, or personal services, for each employee and the amount of that fee which is deposited into the state General Fund, and the difference between that fee and the fee paid for a national criminal history check (\$15 of the fee would be deposited into the state General Fund).

Note: The Indiana State Department of Health (ISDH) reports that it currently is not licensing personal services agencies. The bill modifies the definition of a qualified entity to include a licensed personal services agency. A qualified entity is able to contact the ISP to request a national criminal history background check. It is not known how this factor will influence the requirements of the bill. Personal services agencies may not be able to obtain national criminal history background checks for employees because they are not licensed.

Background Information: A Limited Criminal History Background Check means information with respect to any arrest or criminal charge, which must include: (1) a disposition; and (2) a photograph of the person who is the subject of the limited criminal history, if a photograph is available. The term includes information about any arrest or criminal charge that occurred less than one year before the date of a request even if no disposition has been entered. A limited criminal history background check is obtained through the Indiana State Police (ISP).

A National Criminal History Background Check means the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification. A national criminal history background check is also obtained through the ISP.

Licensure of Occupational Therapists- The bill does not specify that existing fees for occupational therapist certification would be changed for licensing. Any fee changes that could result from this bill would be determined by rule. It is possible that the requirement of continuing competency could initially reduce the number of license renewals. If fewer licenses are issued, then fee increases could be necessary to maintain current revenue levels.

Temporary Permits- Under the bill, temporary permits issued would be limited to a maximum validity of 180 days.

Background: Current certification and renewal fees for occupational therapists are \$100. Renewals occur biennially. Over the FY 2002-2003 biennium approximately \$338,300 in revenue was collected from fees. During the FY 2004-2005 biennium approximately \$377,700 in fees were collected. FY 2006 fees totaled \$47,270.

The Professional Licensing Agency reports there were 2,543 occupational therapists and 896 occupational therapist assistants with active certifications as of December 2006. Bureau of Labor Statistics employment data indicates, as of May 2005, there were about 2,740 occupational therapists and assistants employed in Indiana.

Explanation of Local Expenditures: (Revised) *Controlled Substance Lists-* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: (Revised) *Semiprofessional Elimination Contests-* Local authorities could receive less revenue from court filing fees if fewer persons are charged with Class B misdemeanors. Any revenue loss would be minimal.

(Revised) *Controlled Substance Lists-* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Professional Licensing Agency, Attorney General; Department of Correction; Medical Licensing Board, Occupational Therapist Committee; Indiana State Police; Indiana Office of Technology.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Wade Lowhorn, Professional Licensing Agency; Dr. Robert Dalton, Department of Education; Indiana Sheriffs' Association, Department of Correction; Mary Azbill, Indiana State Department of Health; Chris Sheets, Indiana State Police; Chris Cotterill, Indiana office of Technology; Sherry Beck, Indiana State Police; Fred Sargeson, AccessIndiana; Doug Shelton, Indiana State Police; Professional Licensing Agency, U.S. Bureau of Labor Statistics, *Indiana Handbook of Taxes, Revenues, and Appropriations*.

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